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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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| In Re |) | Case Number _____08-46780 |
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| Manuel Diaz-Carabes. |) | |
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| |) | MOTION TO CONVERT CASE, AND |
| |) | POINTS AND AUTHORITIES |
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To: The Honorable Edward D. Jellen, Bankruptcy Judge:

Manuel Diaz-Carabes, debtor herein, by Richard A. Mac Bride, his attorney, hereby move this court to convert the above captioned case from Chapter 13 to Chapter 7, and as a factual basis and grounds therefor, state:

1. On November 19, 2008, debtor filed his voluntary petition under Chapter 13 of the Bankruptcy Code.
2. A trustee was appointed, Martha G. Bronitsky.
3. This Chapter 13 case is an original Chapter 13 case and no prior conversions have been ordered.
4. The debtor is eligible under 11 U.S.C. §§ 101(41), 109(b) of the Bankruptcy Code to be debtors under Chapter 7 of the Bankruptcy Code.
5. Federal Bankruptcy Law provides for conversion from Chapter 13 to Chapter 7 by right at any time under 11 U.S.C. §1307(a) at any time with or without cause.

Motion for Conversion of Case From Chapter 13 to Chapter 7 Bankruptcy 08-46780 – Manuel Diaz-Carabes (Northern Dist. Oakland)

1 6. The debtors' income is below the threshold required to be eligible to file for Chapter 7, or is
2 sufficiently close to the threshold that under the calculations provided for in the
3 corresponding bankruptcy forms, the presumption does not arise. (See Chapter 7 Means
4 Test, filed simultaneously herewith or shortly thereafter.)

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6 POINTS AND AUTHORITIES

7 BANKRUPTCY CODE SECTION 1307(a) (11 U.S.C. §1307): "The debtor may convert a case
8 under this chapter to a case under Chapter 7 of this title at any time. Any waiver of the right to
9 convert under this subsection is unenforceable."

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11 PRAYER

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13 Wherefore, debtors move that this Honorable Court enter an order converting this case to Chapter 7,
14 and for such other and further relief as is just.

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16 ss/Richard A. Mac Bride

17 Richard A. Mac Bride, attorney for debtor

18 Manuel Diaz-Carabes

19 January 16, 2010
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